Franchise Tax Board

ANALYSIS OF ORIGINAL BILL

Author:	Maldonado	Analyst:	Jennifer Bettencourt	Bill Number:	SBX1 13
Related Bills:	See Legislative History	Telephone:	845-5163	Introduced Date:	October 11, 2007
		Attorney:	Patrick Kusiak	Sponsor:	

SUBJECT: Health Care Information Technology Systems Credit/FTB Report To Legislature Annually On Utilization Of Credit

SUMMARY

This bill would allow a tax credit for the purchase of health care information technology.

This analysis will address only those provisions impacting the Franchise Tax Board (FTB).

PURPOSE OF THE BILL

According to the author's staff, the purpose of this bill is to encourage the implementation of health care information technology to provide a more efficient storage, retrieval, and sharing of health care information.

EFFECTIVE/OPERATIVE DATE

The bill would be effective on the 91st day after adjournment of the special session (Constitution art. IV, sec. 8(c)(1)). The tax provisions of this bill would be specifically operative for taxable years beginning on or after January 1, 2008, and before January 1, 2013, and would be repealed on December 1, 2013.

POSITION

Pending.

SUMMARY OF SUGGESTED AMENDMENTS

Amendments have been provided to correct technical errors.

Board Position:			Department Director	Date
______ S	______ NA	______ NP		
______ SA	______ O	______ NAR	Lynette Iwafuchi	1/22/08
______ N	______ OUA	__X__ PENDING	For Selvi Stanislaus	

ANALYSIS

FEDERAL/STATE LAW

Existing federal and state laws provide various tax credits designed to provide tax relief to taxpayers that incur certain expenses (e.g., child adoption) or to influence behavior, including business practices and decisions (e.g., research credits or economic development area hiring credits). These credits generally are designed to provide incentives for taxpayers to perform various actions or activities that they may not otherwise undertake.

Current state and federal laws allow a taxpayer to deduct expenses paid or incurred in the ordinary course of a taxpayer's trade or business. Current state and federal laws do not provide a credit similar to the one proposed by this bill.

THIS BILL

For taxable years beginning on or after January 1, 2008, and before January 1, 2013, this bill would allow a credit in an amount equal to 15 percent of the costs paid or incurred during the taxable year for the purchase of health care information technology. This bill specifies that if a taxpayer is allocated this credit they would be ineligible for a low-interest loan. The converse would also apply—a taxpayer who receives a low-interest loan would be ineligible for this credit.

The credit would be repealed as of December 1, 2013.

This bill would define the following terms:

- "Health care information technology" means information technology purchased by a qualified taxpayer that will aid in the provision of health care in a health care setting. The bill excludes information technology that is used solely for financial management, maintenance of inventory of basic supplies, or appointment scheduling.
- "Qualified taxpayer" is defined as a for-profit or nonprofit health institution, health facility, hospital, long-term care facility, or licensed physician and surgeon whose primary business is health care.

This bill would require FTB to report, on or before January 1, 2010, and annually thereafter, on the utilization of the credit to the Assembly and Senate Health and Revenue and Taxation Committees.

IMPLEMENTATION CONSIDERATIONS

Implementing this bill would require some changes to existing tax forms and instructions and information systems, which could be accomplished during the normal annual update.

TECHNICAL CONSIDERATIONS

This bill refers to an allocated tax credit, yet the bill lacks allocation provisions. Amendments 1 and 2 have been provided to change "allocated" to "allowed" to reflect standard credit language.

LEGISLATIVE HISTORY

SB 1672 (Maldonado, 2005/2006) contained provisions similar to those contained in this bill. SB 1672 failed to pass out of the Senate Revenue and Taxation Committee.

OTHER STATES' INFORMATION

Florida, Illinois, Massachusetts, Michigan, Minnesota, and *New York* laws do not provide a credit comparable to the credit that would be allowed by this bill. The laws of these states were reviewed because their tax laws are similar to California's income tax laws.

FISCAL IMPACT

This bill would not significantly impact the department's costs.

ECONOMIC IMPACT

Revenue Estimate

The estimated revenue losses from this bill are as follows:

Revenue Impact of SBX1 13 Effective Tax Years BOA January 1, 2008 Assumed Immediate Enactment ($ in Millions)		
2007-8	2008-9	2009-10
-$3	-$30	-$25

This estimate does not account for changes in employment, personal income, or gross state product that could result from this bill.

Revenue Discussion

The number of qualified taxpayers and their total expenses for health care information technology and their tax liabilities were used to estimate the revenue impact of this bill. Nonprofit health institutions, nonprofit hospitals and nonprofit long-term care facilities, or sole proprietorship physicians operating at a loss would not benefit from a tax credit and are not considered in this analysis.

It has been estimated by the medical community that the cost to set up an electronic prescription and patient record system ranges from $25,000 to $500,000 and is dependent on the size and complexity of the practice. Using departmental tax data for health facilities that meet the qualifying conditions of this bill, approximately 42,500 taxable business entities would qualify for this credit. Assuming a 25% participation rate over a four-year period would result in approximately 2,000 taxpayers [(42,500 x 25%) /4] that would make qualified purchases for taxable year 2008.

The annual participation start up cost assumptions for these 2,000 taxpayers, by entity type is provided below:

Entity Type	**Estimated Cost**	**Number of Entities**	**Total Cost**
Corporations	$300,000	365	$110 million
LLC's and Partnerships	$100,000	99	$ 10 million
Sole Proprietorships	$35,000	2,188	$ 76 million
Total			$196 million

This bill would provide a credit equal to 15% of qualified purchases. For taxable year 2008, total credits generated would be $30 million ($196 million x 15% = $30 million). Since taxpayers must use credits in the year generated it is assumed that 85% or $25 million ($30 million x 85%) of credits would be applied. The estimate in the chart represents the revenue impact on a fiscal year cash-flow basis.

POLICY CONCERNS

This bill lacks a carry over provision. As a result, a taxpayer that is unable to use the entire credit amount in the year claimed would lose any remaining credit. Most credits allow a limited carryover period because experience shows credits typically are exhausted within eight years of being earned.

This bill would allow a credit in the taxable year in which the technology is purchased but does not require that it be placed in service (i.e., used) in California. Generally, credits involving the purchase of an item of property require subsequent use in order to allow the credit to be claimed.. It is possible that a taxpayer could purchase the technology, claim the credit, and either never use it or resell the technology to a third party that may also claim the credit.

This bill would allow taxpayers in certain circumstances to claim multiple tax benefits for the same item of expense. This bill should specify that the credit allowed under this section would be taken in lieu of any other credit or deduction allowed under other provisions for the same costs.

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FRANCHISE TAX BOARD'S
PROPOSED AMENDMENTS TO SBX1 13
As Introduced October 11, 2007

AMENDMENT 1

Page 3, line 19, strikeout 'allocated' and insert:

'allowed'.

AMENDMENT 2

Page 4, line 12 strikeout 'allocated' and insert:

'allowed'.